



12, 2020, Governor Newsom issued Executive Order N-25-20, declaring that state and local public health officials may, as they deem necessary in the interest of public health, issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings through no fault or responsibility of the parties involved, thereby constituting a force majeure. On March 12, 2020, the City Manager, as the City's Director of Emergency Services, issued Proclamation No. 2020-01 declaring a local emergency to protect public health and slow transmission of COVID-19. By Resolution 2020-09, the City Council ratified the Proclamation on March 13, 2020.

As of March 13, 2020, the World Health Organization reported that, to date, there were 132,536 confirmed cases of COVID-19, 4,947 of which resulted in death, across 123 countries. On March 13, 2020, the California Department of Public Health (CDPH) reported that, to date, California has 198 confirmed cases of COVID-19, four of which have resulted in death. CDPH also reported that approximately 11,100 Californians who returned to the United States after travel are self-monitoring. The CDC anticipates that widespread transmission of COVID-19 in the United States will occur.

On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding to assist state and local governments in preventing the spread of and addressing the effects of COVID-19. On March 19, 2020, the Governor of California issued a "Stay At Home" Executive Order No. N-33-20 that required all citizens, except for essential workers, to stay home with limited exceptions allowed to obtain essential services. On Sunday, March 22, 2020, the President of the United States approved a Major Disaster Declaration for the State of California.

The Centers for Disease Control and Prevention and the California Department of Health have all issued recommendations including but not limited to social distancing, staying home if sick, cancelling or postponing large group events, working from home, isolating at home and other precautions to protect public health and transmission of this communicable virus. However, as a result of the public health emergency and the stay at home order, as well as the suspension of all area schools, the parks and open spaces of the City have become crowded with residents to the point that required social distancing of at least six feet is not being consistently observed. As a result, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, the Director of Emergency Services, on March 23, 2020, issued a regulation immediately closing all City Parks and Open Spaces except for essential city personnel. The City Council is being asked to ratify this Regulation.

COVID-19 is a serious public health threat as it is highly contagious and may be spread by asymptomatic individuals. Much is unknown about the nature of the virus such as the exact modes of transmission, the factors facilitating human-to-human transmission, the

extent of asymptomatic viral shedding, mutations, basic reproduction number, and the case fatality rate. Experts disagree about the incubation period and appropriate quarantine period. Additionally, there is currently no vaccine to prevent COVID-19 or specific antiviral treatment that has been found to be effective.

Due to the threat to the health, safety and welfare of residents of Costa Mesa and Orange County from COVID-19, staff is requesting the City Council ratify the Regulation closing the city's parks and open spaces issued pursuant to Proclamation No. 2020-01 declaring the existence of a local emergency pursuant to Government Code section 8630 and Costa Mesa Municipal Code section 6-6(a)(1).

### **ANALYSIS:**

Government Code section 8558 defines a local emergency as "the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, *epidemic*, riot, drought, ... or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat." (Emphasis added.)

Under Government Code section 8630, the City Council can proclaim the existence of a local emergency. Under Costa Mesa Municipal Code (CMMC) section 6-6(a)(1), the City Manager, as the Director of Emergency Services, can also proclaim the existence of a local emergency. Once the existence of a local emergency is proclaimed, neighboring jurisdictions and the State have the power to provide mutual aid to address the emergency conditions. Pursuant to Government Code section 8630, once proclaimed, the City Council is required to review the need for continuing the local emergency at least every 60 days until the local emergency is terminated, and must proclaim the termination of the local emergency at the earliest possible date that conditions warrant. Currently, the Governor has suspended the 60-day review requirement.

Accordingly, on March 12, 2020 the City Manager, as the City's Director of Emergency Services, declared a local emergency as authorized by Government Code section 8630 and Costa Mesa Municipal Code section 6-6(a)(1). The City Council ratified that Proclamation by Resolution No. 2020-09 on March 13, 2020.

The Director of Emergency Services has determined that it was necessary to issue a Regulation pursuant to the declared state of emergency to close all city parks and open spaces which include parking lots, picnic shelters, exercise equipment and sports courts, due to the need to maintain social distancing and to ensure the effectiveness of the Governor's order that all non-essential workers stay home to reduce the spread of COVID-19. This order was necessary to protect public health and safety as there are 378,392 cases worldwide as of this date (+40,903 since the prior day) and 16,490 deaths (+1,849 since the prior day). The United States has 43,449 cases (+9,883), and deaths

of 545 (+132), and the state of California has 1,733 (+265) and 33 deaths (+8). In Orange County, the number of COVID-19 cases is 125 with no deaths to date; however at least 38 cases are due to community transmission.

**FISCAL REVIEW:**

The primary costs that would be incurred by the City are for enforcement of the Regulation and the cost of making signs for posting at all parks to ensure enforceability of the Regulation. Current City costs are being covered by existing department appropriations, but will be tracked separately in the City's Disaster Fund. Staff will pursue federal and State reimbursement for all City costs incurred.

**LEGAL REVIEW:**

The City Attorney's Office has reviewed and approved the proposed resolution and this report as to form.

**CITY COUNCIL GOALS & PRIORITIES:**

GOAL 1: Keep our Community Safe.

## **CONCLUSION:**

Staff recommends that City Council adopt Resolution 2020-\_\_\_, ratifying the Regulation issued by the Director of Emergency Services closing the City's parks and open spaces during the existence of the local emergency.

---

**LORI ANN FARRELL HARRISON**  
City Manager

---

**KIMBERLY HALL BARLOW**  
City Attorney

---

**YVETTE E. AGUILAR**  
Acting Parks and Community Services Director

- Attachments:
1. [Proposed Resolution No. 2020-\\_\\_\\_ including Regulation 2020-01](#)
  2. [County of Orange Proclamation of Local Emergency](#)
  3. [County of Orange Declaration of Local Health Emergency](#)
  4. [State of California Proclamation of State of Emergency](#)
  5. [Governor Newsom Executive Order N-25-20](#)
  6. [Governor Newsom Executive Order N-33-20](#)